

Christine Joyce

9/19 (7) 060

From: Christine Joyce
Sent: Wednesday, June 12, 2013 11:34 AM
To: Steve Ledoux; Janet Adachi
Cc: Eva Szkaradek; Tack Palmer
Subject: RE: Acton.GenSel - Dog & Kennel Licensing Fees

5th
Under BOS Business on the 8th of August

From: Steve Ledoux
Sent: Wednesday, June 12, 2013 11:18 AM
To: Janet Adachi
Cc: Christine Joyce
Subject: RE: Acton.GenSel - Dog & Kennel Licensing Fees

Think we will put it on a July or August agenda.

Steven L Ledoux
Town Manager
472 Main Street
Acton, MA 01720
Telephone (978) 929-6611

When writing or corresponding, please be aware that the Secretary of State has determined that most email is a public record and, therefore, may not be kept confidential.

From: Janet K. Adachi [<mailto:jkajeg@msn.com>]
Sent: Wednesday, June 12, 2013 11:17 AM
To: Nina Pickering Cook
Cc: Steve Ledoux; Frank Widmayer; Tack Palmer; Eva Szkaradek; Mary deAlderete; Stephen Anderson
Subject: Re: Acton.GenSel - Dog & Kennel Licensing Fees

The BOS obviously needs to address the Item 2 approval. But the discussion also could touch briefly on Item 1, just so the BOS is aware that this is a matter in their purview, but with emphasis on the recommendation that the fee schedule remain the same so that the BOS also understands that an exhaustive discussion isn't necessary.

Janet K. Adachi
jkajeg@msn.com

On Jun 12, 2013, at 10:54 AM, Nina Pickering Cook wrote:

Steve:

It depends on the BOS prerogative. It may be worthwhile for the BOS to at least discuss the licensing fees, even if the result is to vote to keep them the same. It shows that at least the BOS considered changing the fees in light of all of the other changes to dog and kennel licensing at this time. But, if you feel it would be a waste of time, the BOS can take no action and then the fees would remain at current levels.

Nina

From: Steve Ledoux [<mailto:sledoux@acton-ma.gov>]
Sent: Wednesday, June 12, 2013 10:52 AM
To: Nina Pickering Cook; Janet Adachi
Cc: Frank Widmayer; Tack Palmer; Eva Szkaradek; Mary deAlderete; Stephen D. Anderson
Subject: RE: Acton.GenSel - Dog & Kennel Licensing Fees

In terms of BoS action items then, we really should only concern ourselves with #2, correct?

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From: Nina Pickering Cook [<mailto:npickeringcook@AndersonKreiger.com>]
Sent: Wednesday, June 12, 2013 10:46 AM
To: Janet Adachi; Steve Ledoux
Cc: Frank Widmayer; Tack Palmer; Eva Szkaradek; Mary deAlderete; Stephen Anderson
Subject: Acton.GenSel - Dog & Kennel Licensing Fees

Janet and Steve:

Yesterday, during our monthly office hours, I was able to meet with Tack, Eva and Mary to discuss a number of issues related to dog and kennel licensing, including their recommendations for the licensing fees to be determined by the Selectmen.

At this point, there are two items that require BOS discussion and determination: (1) the level of licensing fees; and (2) when to begin to administer the waiver of license fees for the elderly (over 70). With respect to item 1, Tack, Eva and Mary have recommended that the BOS maintain the current level of licensing fees for both dogs and kennels. They collectively believe that the fees currently charged by Acton are in line with, or even somewhat more expensive than, other surrounding towns. The group also determined that with the small number of kennels in town (5), it is not recommended at this point to break down the kennel licensing fee structure by the new categories of kennels described in the state law. All of these recommendations comport with state and local laws. Therefore, the fee schedule is recommended to remain as follows:

- Spayed/neutered dogs = \$15;
- Non-altered dogs = \$20;
- Kennels with 1-4 dogs = \$45;
- Kennels with 5-9 dogs = \$89;
- Kennels with 10-20 dogs = \$125; and
- Over 20 dogs requires a new license for the remaining number of dogs (i.e., a kennel with 32 dogs would require 2 \$125 kennel licenses).

With respect to item 2, the ATM this year approved Article 40, which waived dog license fees for residents over 70 years of age. A copy of the warrant article is attached. Where dog licensing in Acton is conducted between January 1-March 31 in each calendar year, then licensing for 2013 is largely over by the time this Article passed, and is presumably approved by the AG. The implementation date of the waiver was described in the summary as January 1, 2014, to be in effect at the beginning of the next licensing year. We recommend that the BOS vote to implement that article as described, beginning January 1, 2014.

Although the BOS not need (and, indeed, cannot) take any action with respect to the level of fines (as opposed to license *fees*) as those are set by General Bylaw, I wanted to give you a heads up that Eva and Mary are preparing a draft Bylaw amendment for the next Town Meeting (either Annual or Special) to raise the current fines for bylaw violations. Currently, the fines for license violations are \$50. Those were just changes at the ATM and would remain the same. All other violations of the Bylaw are \$25. Tack feels these are too low and do not provide any deterrence. Therefore, he will work with the Town Clerk's Office to develop a graduated schedule of fines.

Please let me know if you have any questions on this,
Nina

From: Janet K. Adachi [<mailto:jkajeg@msn.com>]
Sent: Monday, May 20, 2013 5:21 PM
To: Steve Ledoux
Cc: Nina Pickering Cook; Frank Widmayer
Subject: Re: BOS, 5/20 - dog fee/fine

Agree. If the only item where BOS action would be appropriate is the Item 1 license fees, the Board needs guidance as to reasonable amount from Dog Officer, Police, etc. before it may act.

Janet K. Adachi
jkajeg@msn.com

On May 20, 2013, at 3:48 PM, Steve Ledoux wrote:

Given that, I don't think we are ready for #1 tonight.

Steven L Ledoux
Town Manager
472 Main Street
Acton, MA 01720
Telephone (978) 929-6611

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From: Nina Pickering Cook [<mailto:npickeringcook@AndersonKreiger.com>]
Sent: Monday, May 20, 2013 3:42 PM
To: Steve Ledoux; Frank Widmayer
Subject: RE: BOS, 5/20 - dog fee/fine

All:

Just to be clear, there are 3 situations in which money comes into play for animal control:

1. License *fees*;
2. Licensing violation *fines*; and
3. *Fines* for other violations of the animal control bylaw.

If passed without amendment, then Article 39 of the 2013 Animal Town Meeting does not go into effect until "approved by the attorney general or ninety days shall have elapsed with action by the attorney general[.]" G.L. c. 40, §32. That means that, in the interim, the existing Animal Control Bylaw is in effect.

Per existing General Bylaw E22, the license fee (number 1 above) is determined by the Board of Selectmen. This is also the case post-amendment, however, the BOS will also have the explicit authorization to set license fees for dogs *and* kennels. I would recommend that the BOS set the fees for both dogs and kennels, noting that they are done in anticipation of the approval of the amended Animal Control Bylaw. Perhaps this has already been noted by Eva or Tack, but Kennel have been broken out into five categories under the new state statute. The BOS should consider whether each category warrants a different fee. The current licensing fee is set by the number of dogs.

The existing General Bylaw E23 sets fines for licensing violation (number 2 above) at \$25. The state statute requires a minimum of \$50 per violation. The amended E23 incorporates that change. Regardless, the Town should act in accordance with state law and enforce the \$50 minimum ticket for licensing violations. The BOS do not need to take any action on that point.

General Bylaw E45, both existing and as amended, sets fines for violations of the Animal Control Bylaw (number 3 above), including Bylaw E24, which includes the requirement to maintain control of one's dog, at \$25. The BOS cannot change this amount, unless they impose greater fines after a hearing per its powers in Bylaw E25. Therefore, unless faced with a hearing on a specific dog, there is no action that the BOS can take on this point.

Please let me know if you have any questions,
Nina

From: Steve Ledoux [<mailto:sledoux@acton-ma.gov>]
Sent: Monday, May 20, 2013 2:24 PM
To: Frank Widmayer; Nina Pickering Cook
Subject: RE: BOS, 5/20 - dog fee/fine

So, the question in my mind is can we adopt new fees/fines until AG approves bylaw?

Steven L Ledoux
Town Manager
472 Main Street
Acton, MA 01720
Telephone (978) 929-6611

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From: Frank Widmayer
Sent: Monday, May 20, 2013 2:23 PM
To: Steve Ledoux; Nina Pickering Cook
Subject: RE: BOS, 5/20 - dog fee/fine

Nina/Steve,

I've just had a chance to look at this. The current bylaw says \$25 for the license fee under section E23. The fine for the violation of keeping the animal under control is determined by the Board of Selectmen and is currently \$25. I believe that Tack is using \$50 as set by the new state law although that is not in compliance with the bylaw yet. I have attached a copy of our existing bylaw. I assume that the goal is to put the bylaw into compliance with the state law. If you need anything from me just let me know.

Regards,
Frank

Frank J. Widmayer III
Chief of Police
978-263-2911

From: Steve Ledoux
Sent: Monday, May 20, 2013 1:56 PM
To: Nina Pickering Cook
Cc: Frank Widmayer
Subject: RE: BOS, 5/20 - dog fee/fine

This is Article 39 from this ATM.

E. 23 says that anyone who fails to license dog or kennel under time required by Ch. 140, 137 and 137A shall be subject to a penalty of \$50.

It seems the BoS need to set both a fee for the license as well as the fine for non compliance, which the bylaw states is \$50

Several questions

- Does BoS set the fine if Bylaw sets it at \$50
- Can BoS set fee for license until AG approves Bylaw?
- What happens if fees/fines are set before AG approval?

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Town Manager
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From: Nina Pickering Cook [<mailto:npickeringcook@AndersonKreiger.com>]
Sent: Monday, May 20, 2013 9:34 AM
To: Steve Ledoux
Cc: Frank Widmayer
Subject: RE: BOS, 5/20 - dog fee/fine

Steve:

I need a little more context on this one. If this is the fine for licensing violations, state law states it must be a *minimum* of \$50. The BOS can set the fees and fines for any matter delegated to their authority and not specifically laid out in the Animal Control Bylaw. So the answer depends on whether this is just a Bylaw violation or whether this is a licensing violation. As soon as I know, I can provide a more specific answer.

Nina

From: Steve Ledoux [<mailto:sledoux@acton-ma.gov>]
Sent: Sunday, May 19, 2013 6:08 PM
To: Nina Pickering Cook
Subject: Fwd: BOS, 5/20 - dog fee/fine

Sent from my iPhone. Please pardon brevity or typos.

Begin forwarded message:

From: Frank Widmayer <fwidmayer@acton-ma.gov>
Date: May 19, 2013, 6:06:43 PM EDT
To: Steve Ledoux <sledoux@acton-ma.gov>
Subject: Re: BOS, 5/20 - dog fee/fine

Well it's kind of confusing actually. I think the BOS can approve a temporary change as we did with the ice cream vendor. Probably best to ask town counsel. As for refunds I would say if someone complained a refund would have to be made. The AG has to approve any change after the TM vote. Although as long as the fine is below \$300 it should go through fine.

Sent from my iPhone

On May 19, 2013, at 17:43, "Steve Ledoux" <sledoux@acton-ma.gov> wrote:

Sent from my iPhone. Please pardon brevity or typos.

Begin forwarded message:

From: Janet Adachi <jkajeg@msn.com>
Date: May 19, 2013, 2:21:54 PM EDT
To: Steve Ledoux <sledoux@acton-ma.gov>
Subject: BOS, 5/20 - dog fee/fine

What is the proper approval process? Town Meeting vote to approve amendment, then BOS approval, then state approval? If \$50 not yet authorized, does Dog Officer have to refund excess charged?

Janet K. Adachi
jkajeg@msn.com